

EXHIBIT “D”

IN 72 61 03 04

★★★★★★★ **IMPORTANT INSURANCE INFORMATION** ★★★★★★★

Please read this Notice carefully. No coverage is provided by this notice nor can it be construed to replace any provision of your policy. You should read your policy and review your declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this notice, the provisions of the policy shall prevail.

PENNSYLVANIA NOTICE

An Insurance Company, its agents, employees, or service contractors acting on its behalf, may provide services to reduce the likelihood of injury, death or loss. These services may include any of the following or related services incident to the application for, issuance, renewal or continuation of, a policy of insurance:

1. surveys;
2. consultation or advice; or
3. inspections.

The "Insurance Consultation Services Exemption Act" of Pennsylvania provides that the Insurance Company, its agents, employees or service contractors acting on its behalf, is not liable for damages from injury, death or loss occurring as a result of any act or omission by any person in the furnishing of or the failure to furnish these services.

The Act does not apply:

1. if the injury, death or loss occurred during the actual performance of the services and was caused by the negligence of the Insurance Company, its agents, employees or service contractors;
2. to consultation services required to be performed under a written service contract not related to a policy of insurance; or
3. if any acts or omissions of the insurance company, its agents, employees or service contractors are judicially determined to constitute a crime, actual malice, or gross negligence.

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ACP CAF 5403384960

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**IMPORTANT INSURANCE INFORMATION**

Please read this Notice carefully. No coverage is provided by this notice nor can it be construed to replace any provision of your policy. You should read your policy and review your declarations page for complete information on the coverages you are provided. If there is any conflict between the policy and this notice, the provisions of the policy shall prevail.

NOTICE TO POLICY HOLDERS

POTENTIAL RESTRICTIONS OF TERRORISM COVERAGE

This Notice has been prepared in conjunction with the **POTENTIAL** implementation of changes related to coverage of terrorism under your policy.

The Terrorism Risk Insurance Act established a program (Terrorism Risk Insurance Program) within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. That Program will terminate at the end of December 31, 2007 unless extended by the federal government. Your policy will become effective (or will be renewed) while the federal Program is still in effect, but prior to a decision by the federal government on extension of the federal Program. If the federal Program terminates, or is extended with certain changes, during the term of your policy, then the treatment of terrorism under your policy will change. This Notice is being provided to you for the purpose of summarizing potential impact on your coverage. The summary is a brief synopsis of significant exclusionary provisions and limitations.

This Notice does **not** form a part of your insurance contract. The Notice is designed to alert you to coverage restrictions and to other provisions in certain terrorism endorsement(s) in this policy. If there is any conflict between this Notice and the policy (including its endorsements), the provisions of the policy (including its endorsements) apply.

Carefully read your policy, including the endorsements attached to your policy.

YOUR POLICY AT START OF NEW POLICY TERM:

This policy does not contain a terrorism exclusion. However, the policy contains an endorsement under which coverage for "certified acts of terrorism" (which is more fully defined in the endorsement but involves acts of terrorism by or on behalf of a foreign interest) is subject to a limit on our liability pursuant to the federal Terrorism Risk Insurance Act. Further, the absence of a terrorism exclusion does not create coverage for any injury or damage that would otherwise be excluded under the policy, such as losses excluded by the war liability exclusion.

POTENTIAL CHANGE DURING THE TERM OF YOUR POLICY:

Endorsement UMB 0064 is attached to your policy. Its provisions will become applicable to your policy only if certain events (one or more of them) occur. Those events include the following:

- If the federal Terrorism Risk Insurance Program (TRIP) terminates with respect to the type of insurance provided under this policy. (TRIP is scheduled to terminate at the end of December 31, 2007 unless extended by the federal government.); or
- If TRIP is extended with changes that redefine terrorism, and we are not required to make such revised coverage available to you; or
- If TRIP is extended with changes that make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other events or occurrences under this policy, and we are not required to make such revised coverage available to you; or

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- If TRIP is extended with changes that increase insurers' statutory percentage deductible under TRIP for terrorism losses, or decrease the federal government's statutory percentage share in potential terrorism losses, and we are not required to make terrorism coverage available to you. Our deductible in 2006 is 17.5% of the total of our previous year's direct earned premiums. In 2007, that figure is 20%. The government's share is 85% of the terrorism losses paid by us above the deductible.

Endorsement UMB 0064 treats terrorism as follows:

- Coverage for injury or damage arising out of a terrorism incident is excluded only if:
 - The total of all insured damage to all types of property (including business interruption losses sustained by owners or occupants of damaged property), from the incident, exceeds \$25 million. The \$25 million property damage threshold is based on losses sustained by all persons and entities who are affected by an incident of terrorism, and who are insured for the damage, or who would be insured but for a terrorism exclusion; or
 - Fifty or more persons sustain death or serious physical injury; or
- (To determine whether the threshold for property damage (\$25 million) and persons injured (fifty) is exceeded, multiple incidents of terrorism which occur within a seventy-two hour period and appear to be linked together or have a related purpose or common leadership behind them shall be considered to be one incident of terrorism.)*
- The terrorism event involves nuclear materials or results in nuclear reaction or radiation or radioactive contamination; or
 - The terrorism event involves the release of radioactive material, and it appears that one purpose of the terrorism was to release such material; or
 - The terrorism event is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
 - The terrorism event involves the release of pathogenic or poisonous biological or chemical materials, and it appears that one purpose of the terrorism was to release such materials.

See the definition of terrorism for purposes of the terrorism exclusion.

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DECLARATIONS

NEW ISSUE

COMMERCIAL UMBRELLA LIABILITY
 INSURANCE POLICY
 NATIONWIDE MUTUAL FIRE INS CO
 ONE NATIONWIDE PLAZA
 COLUMBUS OH 432152220

Policy Number: ACP CAF 5403384960

ITEM 1

Named Insured: 4200 ROSE HOSPITALITY LLC AND 4200 ROOSEVELT LLC - DBA

ITEM 2
DAYS INNAddress: 4200 ROOSEVELT BLVD
PHILADELPHIA PA 191243033

Agent: Wade Timothy P Inc

Address: BENSALEM PA 19020 54 37 80585 0014

PRODUCER: BELLA VICTOR

ITEM 3

Policy Period : From 12:01 A.M., 04/23/08 to 12:01 A.M., 04/23/09

ITEM 4

Schedule of Underlying Insurance: See Endorsement No. UMB 00 01

ITEM 5

Retained Limit Aggregate: NONE

ITEM 6

Limits of Insurance:

- a) \$5,000,000 Each Occurrence
- b) \$5,000,000 Products - Completed Operations Aggregate
- c) \$5,000,000 Other Aggregate

ITEM 7

Coverage A - Excess Follow Form Liability Insurance
 B - Umbrella Liability Insurance

ITEM 8

Premium :

Amount

ITEM 9

Endorsements:	UMB0049	0502	UMB0052	0203	UMB0058	0502	UMB0065	0305	UMB0027	1298
	UMB3700	0304	UMB0031	0205	UMB0064	0107	UMB0074	0506	IN7303	0107
	INT261	0304	UMB0001	0303	UMB0002	1206	13614	1185	UMB0009	1298
	UMB0019	1298	UMB0028	1298	UMB0029	1298	UMB0035	1298	UMB0043	1298

Renewal or Replacement No.

Countersigned By

Authorized Representative

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NATIONWIDE MUTUAL FIRE INSURANCE COMPANY MUTUAL COMPANY CONDITIONS ENDORSEMENT

POLICYHOLDER MEMBERSHIP IN THE COMPANY

(Applicable Only to Policies Issued by Nationwide Mutual Fire Insurance Company in States Other than the State of Texas)

Because this policy is issued by Nationwide Mutual Fire Insurance Company (the "Company"), the first named insured listed on the declarations page ("named insured") is a member of the Company issuing the policy while this or any other policy issued by the Company is in force. While a member, the named insured is entitled to one vote only – regardless of the number of policies issued to the named insured – either in person or by proxy at meetings of members of the Company.

The annual meeting of members of the Company will be held each year at the Home Office of the Company in Columbus, Ohio, at 9:30 a.m. on the first Thursday of April. If the Board of Directors of Nationwide Mutual Fire Insurance Company should elect to change the time or place of that meeting, the Company will mail notice of the change to the member's last known address. The Company will mail this notice at least 10 days in advance of the meeting date.

This policy is non-assessable, meaning that the named insured is not subject to any assessment beyond the premiums required for each policy term.

POLICYHOLDER DIVIDEND PROVISIONS

The named insured is entitled to any Dividends which are declared by the Board of Directors of the Company in accordance with law and which are applicable to coverages provided in this policy.

POLICYHOLDER MEMBERSHIP IN THE COMPANY IN TEXAS

(Applicable Only to Policies Issued by Nationwide Mutual Fire Insurance Company in the State of Texas)

1. MUTUALS – MEMBERSHIP AND VOTING NOTICE. The named insured is notified that, by virtue of this policy, the named insured is a member of the Nationwide Mutual Fire Insurance Company of Columbus, Ohio, (the "Company") and is entitled, as is lawfully provided in the charter, constitution, and by-laws to vote either in person or by proxy in any or all meetings of said Company. Each member is entitled to only one vote regardless of the number of policies owned. The annual meetings of the members of the Company are held in the Home Office, at Columbus, Ohio, on the first Thursday of April, in each year, at 9:30 o'clock a.m.

2. MUTUALS – PARTICIPATION CLAUSE WITHOUT CONTINGENT LIABILITY. No Contingent Liability: This policy is non-assessable. The named insured is a member of the Company and shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors in accordance with the provisions of law, in the distribution of dividends so fixed and determined.

IN WITNESS WHEREOF: Nationwide Mutual Fire Insurance Company has caused this policy to be signed by its President and Secretary, and countersigned by a duly authorized representative of the Company.

Patricia B. Hatter

Secretary



President
Nationwide Mutual Fire Insurance Company

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NATIONWIDE MUTUAL FIRE INS CO

**COMMERCIAL UMBRELLA LIABILITY
FORMS AND ENDORSEMENTS SUMMARY**

Number: ACP CAF 5403384960

Period:

From 04/23/08 To 04/23/09

FORM/ENDORSEMENT	DATE	TITLE
IN7261	0304	IMPORTANT NOTICE - PENNSYLVANIA
IN7303	0107	NOTICE TO POLICY HOLDERS POTENTIAL RESTRICTIONS OF TERRORISM
UMB0001	0303	SCHEDULE OF UNDERLYING INSURANCE
UMB0002	1206	COMMERCIAL UMBRELLA LIABILITY POLICY
UMB0009	1298	AUTOMOBILE COVERAGE LIMITATION
UMB0019	1298	EMPLOYEE BENEFITS LIABILITY EXCLUSION - COVERAGE B
UMB0027	1298	LEAD, RADON AND ELECTRO-MAGNETIC EXCLUSION - COVERAGE B
UMB0028	1298	LIMITATION OF COVERAGE TO DESIGNATED PREMISES - COVERAGE A A
UMB0029	1298	LIQUOR LIABILITY EXCLUSION - COVERAGE B
UMB0031	0205	OTHER UMBRELLA INSURANCE
UMB0035	1298	PUNITIVE DAMAGES EXCLUSION - COVERAGE A AND B
UMB0043	1298	UNIMPAIRED AGGREGATE LIMITS - (NON-CONCURRENCY)
UMB0049	0502	FUNGI OR BACTERIA EXCLUSION - COVERAGE A AND B
UMB0052	0203	CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM
UMB0058	0502	FUNGI OR BACTERIA EXCLUSION - COVERAGE B
UMB0064	0107	CONDITIONAL EXCLUSION OF TERRORISM (RELATING TO DISPOSITION
UMB0065	0305	EXCLUSION-VIOLATION OF STATUTES THAT GOVERN E-MAILS, FAX, PH
UMB0074	0506	AMENDMENT OF INSURING AGREEMENT - COVERAGE B KNOWN INJURY OR
UMB3700	0304	PENNSYLVANIA AMENDATORY ENDORSEMENT
13614	1185	SPECIAL CONTINUATION PROVISION

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UMB 00 01 (03-03)**ITEM 4 Schedule of Underlying Insurance:**

MINIMUM REQUIRED PRIMARY INSURANCE AND LIMITS THAT "YOU" MUST MAINTAIN DURING THE ENTIRE POLICY TERM. SEE YOUR POLICY FOR FURTHER INFORMATION.

Employers' Liability:	Bodily Injury by Accident \$ each accident Bodily Injury by Disease \$ each employee policy limit
Type of Coverage	
<input type="checkbox"/> Workers Compensation and Employers Liability Policy	\$ each employee policy limit
<input type="checkbox"/> Employers Liability Only	
<input checked="" type="checkbox"/> Employers Liability Excluded	
Automobile Liability:	Bodily Injury and Property Damage Liability Combined \$ 1,000,000 each accident
Type of Coverage	
<input type="checkbox"/> Business Auto - Symbol 1	
<input type="checkbox"/> Business Auto - Symbol 7	
<input type="checkbox"/> Business Auto - Symbol 8 & 9	
<input checked="" type="checkbox"/> Other - Specify: <u>ACP BPMK 5403384960</u>	
<input type="checkbox"/> All Auto Excluded	
Garage Liability:	Bodily Injury and Property Damage Liability Combined
Type of Coverage	
<input type="checkbox"/> Garage Liability - Symbol _____	\$ each accident \$ auto only \$ other than auto only \$ aggregate
<input checked="" type="checkbox"/> Garage Liability Excluded	\$ other than auto only
General Liability:	Bodily Injury and Property Damage Liability Combined
Commercial General Liability	
<input checked="" type="checkbox"/> Premier Businessowners Liability	
<input type="checkbox"/> Other - Specify: _____	
General Aggregate Limit (Other than Products - Completed Operations)	\$ 2,000,000
Products-Completed Operations Aggregate Limit	\$ 2,000,000
Personal and Advertising Injury Limit	\$ 1,000,000
Each Occurrence Limit	\$ 1,000,000
General Liability Excluded	
Other Liability Underlying:	Specific Limits

Underlying Policies indicated as "Excluded" eliminate that coverage from this Umbrella Policy.

IMPORTANT NOTICE: RESTRICTIONS, LIMITATIONS AND EXCLUSIONS TO THE ABOVE SCHEDULED UNDERLYING POLICIES OR THEIR REPLACEMENTS WILL ACT AS RESTRICTIONS, LIMITATIONS AND EXCLUSIONS TO THIS UMBRELLA POLICY.

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QUICK REFERENCE

COMMERCIAL UMBRELLA LIABILITY POLICY

READ YOUR POLICY CAREFULLY

	Page Number
DECLARATIONS PAGE	
Named Insured Mailing Address	
Policy Period	
Coverages and Limits of Insurance	
Endorsements	
INSURING AGREEMENTS	2
DEFENSE AND SUPPLEMENTARY PAYMENTS	3
LIMITS AND INSURANCE	3
EXCLUSIONS	4
DEFINITIONS	7
CONDITIONS	11
NUCLEAR ENERGY LIABILITY EXCLUSION	13
ENDORSEMENTS – FOLLOWING THE LAST PAGE OF YOUR POLICY	

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COMMERCIAL UMBRELLA LIABILITY POLICY

Various provisions in this policy restrict coverage. Please read the entire policy and any "underlying insurance" carefully to determine rights, duties and what is covered and not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us", and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks are defined in this policy. These definitions are found in the Definitions section or the specific policy provision where they appear.

INSURING AGREEMENTS

A. Coverage A - Excess Follow Form Liability Insurance

1. Under Coverage A, we will pay on behalf of the "insured" that part of "loss" covered by this insurance in excess of the total applicable limits of "underlying insurance", provided the injury or offense takes place during the Policy Period of this policy. The terms and conditions of "underlying insurance" are, with respect to Coverage A, made a part of this policy except with respect to:
 - a. any contrary provision contained in this policy; or
 - b. any provision in this policy for which a similar provision is not contained in "underlying insurance".
2. With respect to the exceptions stated above, the provisions of this policy will apply.
3. The amount we will pay for damages is limited as described in Limits of Insurance.
4. Notwithstanding anything to the contrary contained above, if "underlying insurance" does not cover "loss" for reasons other than exhaustion of an aggregate limit of insurance by payment of claims, then we will not cover such "loss".

5. We have no obligation under this insurance with respect to any claim or "suit" settled without our consent.

6. If we are prevented by law from paying on behalf of the "insured" for coverage provided under this insurance, then we will indemnify the "insured".

7. With respect to any coverage provided by "underlying insurance" that is on a claims-made basis:

- a. this insurance does not apply to injury or damage which occurred before the Retroactive Date, if any, shown in the "underlying insurance", or which occurs after the policy period; and
- b. the aggregate limit shall not be reinstated on this insurance except by endorsement thereon.

B. Coverage B - Umbrella Liability Insurance

1. Under Coverage B, we will pay on behalf of the "insured" damages the "insured" becomes legally obligated to pay by reason of liability imposed by law or assumed under an "insured contract" because of "bodily injury", "property damage", or "personal and advertising injury" covered by this insurance which takes place during the Policy Period and is caused by an "occurrence". We will pay such damages in excess of the Retained Limit Aggregate specified in Item 5 of the Declarations or the amount payable by "other insurance", whichever is greater.
2. Damages because of "bodily injury" include damages claimed by any person or organization for care or loss of services resulting at any time from "bodily injury".
3. This coverage applies anywhere.
4. The amount we will pay is limited as described in Limits of Insurance.
5. Coverage B will not apply to any loss, claim or "suit" for which insurance is afforded under "underlying insurance" or would have been afforded except for the exhaustion of the limits of insurance of "underlying insurance".

6. We have no obligation under this insurance with respect to any claim or "suit" settled without our consent.
7. If we are prevented by law from paying on behalf of the "insured" for coverage provided under this insurance, then we will indemnify the "insured".

DEFENSE AND SUPPLEMENTARY PAYMENTS

Applicable to Coverage A and Coverage B

- A. We have the right and the duty to assume control of the investigation, settlement or defense of any claim or "suit" against the "insured" for damages covered by this policy:
 1. under Coverage A, when the applicable limit of "underlying insurance" has been exhausted by payment of claims; or
 2. under Coverage B, when damages are sought for "bodily injury", "property damage", or "personal or advertising injury" to which no "underlying insurance" or "other insurance" applies.
- B. In those circumstances where paragraph A. above applies, in addition to the applicable Limits of Insurance we will pay our expenses and the following to the extent that they are not included in "underlying insurance":
 1. up to \$3,000 for the cost of bail bonds. We do not have to furnish these bonds;
 2. the cost of bonds to release attachments, but only for bond amounts within the amount of insurance available. We do not have to furnish these bonds;
 3. reasonable expenses incurred by the "insured" at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings;
 4. costs taxed against the "insured" in the "suit";
 5. pre-judgment interest awarded against the "insured" on that part of the judgment we become obligated to pay. However, if we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer; and
 6. all interest awarded against the "insured" on that amount of any judgment that is within

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the applicable Limits of Insurance that we become obligated to pay that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court that part of the judgment we are obligated to pay.

- C. In those circumstances where paragraph A. above does not apply we do not have the duty to assume control of the investigation, settlement or defense of any claim or "suit" against the insured. We do, however, have the right to participate in the investigation, settlement or defense of any claim or "suit" that we feel may create liability on our part under the terms of this policy. If we exercise this right, we will do so at our expense.

We will not defend any "suit" after we have exhausted the applicable Limit of Insurance as stated in Item 6 of the Declarations.

If we are prevented by law or otherwise from carrying out the provisions of this section, DEFENSE AND SUPPLEMENTARY PAYMENTS, we will pay any expense incurred with our consent.

LIMITS OF INSURANCE

A. Applicable to Coverage A and Coverage B

1. With respect to Coverage A and Coverage B, the Limits of Insurance shown in Item 6 of the Declarations and the rules below determine the most we will pay, regardless of the number of:
 - a. "insureds";
 - b. claims made or "suits" brought against any or all "insureds";
 - c. coverages provided under this policy; or
 - d. persons or organizations making claims or bringing "suits".
2. The Limits of Insurance of this policy will apply as follows:
 - a. The limit for Each Occurrence stated in Item 6.a) of the Declarations is the most we will pay for all damages arising out of any one "occurrence" even if such damages are covered, in whole or in part, under both Coverage A and Coverage B.
Any amount paid for damages arising out of an "occurrence" will reduce the amount of the applicable aggregate limit of insurance available for payment of

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damages arising out of any other "occurrence".

If the applicable aggregate limit of insurance has been reduced by payment of damages to an amount that is less than the limit of Each Occurrence stated in item 6.a) of the Declarations, the remaining aggregate limit of insurance is the most that will be available for payment of damages arising out of any other "occurrence".

- b.** Subject to paragraph 2.a. above, the limit stated in Item 6.b) of the Declarations for the Products-Completed Operations Aggregate is the most we will pay for all damages under the "products-completed operations hazard".
- c.** Subject to paragraph 2.a. above, the limit stated in Item 6.c) of the Declarations for the Other Aggregate is the most we will pay for all damages under Coverage A, or separately under Coverage B, except for:
 - 1)** damage covered under the "products-completed operations hazard" or,
 - 2)** damage covered under "underlying insurance" to which no underlying aggregate limit applies.

However, with respect to Coverage A only, the Other Aggregate will apply in the same manner as the aggregate in each policy listed in the Schedule of Underlying Insurance.

- 3.** The Limits of Insurance of this policy apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the Policy Period shown in the Declarations, unless the Policy Period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the preceding period for purposes of determining the Limits of Insurance.

B. Applicable to Coverage A Only

1. With respect to Coverage A and subject to paragraphs 2.a., 2.b. and 2.c. above:
 - a. if the limits of "underlying insurance" have been reduced by payment of "loss", this policy will immediately apply excess of the reduced underlying limit; or
 - b. if the limits of "underlying insurance" have been exhausted by payment of loss, this policy will continue in force as "underlying insurance".
2. The provisions of 1.a. and 1.b. above apply to injury or offense which takes place before the expiration of this policy or the underlying policy, whichever comes first.

EXCLUSIONS**A. Applicable to Coverage A and Coverage B**

Under Coverage A and B, this insurance does not apply to:

- 1. Laws**
Any liability or obligation imposed on the "insured" under any of the following:
 - a. any uninsured/underinsured motorists or automobile no fault or first party personal injury protection law;
 - b. any workers compensation, unemployment compensation, or disability benefits law or any similar law; or
 - c. the United States' Employees' Retirement Income Security Act (ERISA) of 1974 as now or hereafter amended.
- 2. Nuclear Energy Liability**
Any liability excluded by the Nuclear Energy Liability Exclusion on Page 13. of this policy.
- 3. War**
"Bodily injury", "property damage", or "personal and advertising injury", however caused, arising, directly or indirectly, out of:
 - a. War, including undeclared or civil war; or
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or

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- other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

B. Applicable to Coverage A only

The exclusions applicable to the "underlying insurance" also apply to this insurance.

C. Applicable to Coverage B Only

Under Coverage B, this insurance does not apply to:

1. Aircraft Owned or Chartered Without Crew
Any liability arising out of the ownership, maintenance, use, loading or unloading or entrustment to others of any aircraft by you or rented, loaned, or chartered by or on behalf of you without crew.

2. Asbestos

Any liability arising out of asbestos or any asbestos-related injury or damage including, but not limited to, any injury or damage arising out of, or alleged to have arisen out of, any act, error, omission, failure to warn or failure to disclose the presence of asbestos, or other duty involving asbestos, its use, exposure, existence, detection, removal, elimination or avoidance.

3. "Autos": USA, Puerto Rico and Canada

Any liability out of the ownership, maintenance, use, loading or unloading or entrustment to others of "autos" within the United States of America, including its possessions and territories, Puerto Rico, Canada or while "autos" are being transported between these places.

4. Breach of Contract, Failure to Conform, Wrong Description

"Personal and advertising injury" arising out of:

- a. breach of contract, other than misappropriation of advertising ideas under an implied contract;
- b. the failure of goods, products, or services to conform with advertised quality or performance; or
- c. the wrong description of the price of goods, products and services.

5. Damage to "Impaired Property" or Property not Physically Injured.

"Property damage" to "impaired property" or property that has not been physically injured arising out of:

- a. a defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- b. a delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

6. Damage to Property

"Property damage" to:

- a. property you own;
- b. that particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations;
- c. that particular part of any property that must be restored, repaired, or replaced because "your work" was incorrectly performed on it; or
- d. the property of one "insured" in the care, custody or control of another "insured".
- e. Any damage to real or personal property, if the property is in the care, custody or control of the "insured" or as to which the "insured" is for any purpose exercising physical control.

Paragraph c. of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

7. Damage to "Your Product" "Property damage" to "your product" arising out of it or any part of it.

8. Damage to "Your Work" "Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

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UMB 00 02 12 06**9. Recall of Products, Work or Impaired Property**

Damage claims for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- a. "your product";
- b. "your work"; or
- c. "impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy, or dangerous condition in it.

10. Employee Injury

- a. any injury to an "employee" of the "insured" arising out of and in the course of employment by the "insured"; or
- b. any injury to the spouse, child, parent, brother, or sister of that "employee" as a consequence of a. above.

11 Employment Practices

"Bodily injury" or "personal and advertising injury" to:

- a. A person arising out of any:
 - 1) refusal to employ that person;
 - 2) termination of that person's employment; or
 - 3) employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person.
- b. The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at who many of the employment related practices, described in paragraphs 1), 2) or 3) above is directed.

This exclusion applies:

- a. whether the "insured" may be liable as an employer or in any other capacity; and
- b. to any obligation to share damages with or repay someone else who must pay damages because of the injury.

12. Expected or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

13. Falsity, Prior Publication, Willful Violation

"Personal and advertising injury" arising out of:

- a. oral or written publication of material, if done by or at the direction of the "insured" with knowledge of its falsity;
- b. oral or written publication of material, whose first publication took place before the beginning of the policy period; or
- c. willful violation of a penal statute or ordinance committed by or with the consent of the "insured".

14. Pollution

a. "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants at anytime.

b. Any loss, cost or expense arising out of any:

- 1) Request, demand or order that any insured or other test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or
- 2) Claim or "suit" by or on behalf of a governmental authority for damages because testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed, and livestock, poultry or other animal waste.

- 15. "Professional liability" or "excluded occupations liability"**

Any liability arising out of any "professional liability" or "excluded occupations liability".

DEFINITIONS

A. Applicable to Coverage A and Coverage B

As used in Coverage A and Coverage B.

- 1. "Other insurance"** means a policy of insurance affording coverage that this policy also affords. "Other insurance" includes any type of self-insurance or other mechanism by which an "insured" arranges for funding of legal liabilities.

"Other insurance" does not include "underlying insurance" or a policy of insurance specifically purchased to be excess of this policy affording coverage that this policy also affords.

- 2. "Suit"** means a civil proceeding in which injuries or damages to which this insurance applies are alleged. "Suit" includes:

- a. an arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent; or
- b. any other alternative dispute resolution proceeding in which such damages are claimed and to which you submit with our consent.

- 3. "Underlying insurance"** means the policy or policies of insurance listed in the Schedule of Underlying Insurance forming a part of this policy, including any type of self-insurance or alternative method by which the "insured" arranges for funding of legal liabilities that affords coverage that this policy covers.

"Underlying insurance" does not include any Extended Reporting Periods on the policies shown in the Declarations. Extended Reporting Periods must be endorsed onto this policy by us.

B. Applicable to Coverage A Only

As used in Coverage A.

- 1. "Insured"** means:

- a. the Named Insured stated in Item 1 of the Declarations;

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- b. any person or organization included as an "insured" in "underlying insurance"; and

- c. any person or organization for whom you have agreed in writing prior to any claim or "suit" to provide insurance such as afforded by this policy, but only for ongoing operations performed by you or on your behalf, or facilities owned or used by you. This policy will not afford such person or organization limits of insurance in excess of the lesser of:

- 1) the minimum limit of insurance you agreed to provide; or
- 2) the limit of insurance under this policy.

Claims or suits included in the "products-completed operations hazard" will not be considered the result of ongoing operations.

- 2. "Loss"** means those sums actually paid in the settlement or satisfaction of a claim which the "insured" is legally obligated to pay as damages because of injury or offense, after making proper deductions for all recoveries and salvage.

C. Applicable to Coverage B Only

As used in Coverage B.

- 1. "Advertisement"** means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters.

- 2. "Auto"** means:

- a. a Land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment; or

- b. any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

- 3. "Bodily injury"** means physical injury, sickness or disease to a person and, if arising out of the foregoing, mental anguish, mental injury, shock or humiliation, including death at any time resulting therefrom.

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4. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
5. "Excluded occupations liability" means liability arising out of the rendering of a service or the failure to render a service relating to an occupation listed below:
 - a. director or officer of an organization, including elected or appointed public officials;
 - b. data processing or computer software development;
 - c. law enforcement;
 - d. travel agent; or
 - e. publisher, printer or broadcaster.
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by laws or any other similar governing document.
7. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. it incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. you have failed to fulfill the terms of a contract or agreement;

~~if such property can be restored to use by:~~

 - a. the repair, replacement, adjustment or removal of "your product" or "your work";
 - b. your fulfilling the terms of the contract or agreement.
8. "Insured" means:
 - a. If you are:
 - 1) An individual, you and your spouse, but only with respect to the conduct of a business of which you are the sole owner.
 - 2) A partnership or joint venture, your members, partners and their spouses are also "insureds", but only with respect to the conduct of your business.
 - 3) A limited liability company, any member, but only with respect to the conduct of your business. Your managers are "insureds" but only

with respect to their duties as your managers

- b. any organization over which the Named Insured maintains majority interest and to which more specific insurance does not apply, other than one which you newly acquire or form;
- c. any newly acquired or formed organization over which the Named Insured maintains majority interest and to which more specific insurance does not apply; provided that this policy does not apply to any injury or damage that took place before you acquired or formed the organization;
- d. any "executive officer", director, "employee" or stockholder of yours while acting within the scope of their duties as such.
- e. any person or organization while acting as your real estate manager; or
- f. your legal representative if you die, but only with respect to duties as such.

No person or organization is an "insured" with respect to the conduct of any current, past or newly formed partnership or joint venture that is not designated within the Declarations of this policy as Named Insured.

9. "Insured contract" means any written or oral agreement entered into by the "insured" in the usual course of the business operations of the "insured" in which the "insured" assumes "tort liability" of another to pay damages because of "bodily injury", "property damage", or "personal and advertising injury" to a third person or organization where the contract or agreement is made prior to the injury or offense.
10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does include a "temporary worker".
11. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
 - a. bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

- b. vehicles maintained for use solely on or next to premises you own or rent;
- c. vehicles that travel on crawler treads;
- d. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - 1) power cranes, shovels, loaders, diggers or drills; or
 - 2) road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - 1) air compressors, pumps and generators including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - 2) cherry pickers and similar devices used to raise or lower workers;
- f. vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered autos:

- 1) equipment designed primarily for:
 - a) snow removal;
 - b) road maintenance, but not construction or resurfacing; or
 - c) street cleaning;
- 2) cherry pickers, and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- 3) air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a

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compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

12. "Occurrence" means:

- a. with respect to "bodily injury" or "property damage" liability, an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- b. with respect to "personal and advertising injury", a covered offense. All damages that arise from the same act, publication or general conditions are considered to arise out of the same occurrence, regardless of the frequency or repetition thereof, the number or kind of media used or the number of claimants.

13. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses committed in the course of your business:

- a. false arrest, detention or imprisonment;
- b. malicious prosecution;
- c. the wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. oral or written publication of material that slanders or libels a person or organization or disparages a person's or organizations goods, products or services;
- e. oral or written publication of material that violates a person's right of privacy;
- f. discrimination, unless insurance coverage therefore is prohibited by law or statute;
- g. the use of another's advertising idea in your "advertisement"; or
- h. infringing upon another's copyright, trade dress or slogan in your "advertisement".

14. "Products-completed operations hazard" means all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

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- a. products that are still in your physical possession; or
- b. work that has not yet been completed or abandoned. "Your work" will be deemed completed at the earliest of the following times:
 - 1) when all of the work called for in your contract has been completed;
 - 2) when all the work to be done at the site has been completed if your contract calls for work at more than one site; or
 - 3) when that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

This hazard does not include "bodily injury" or "property damage" arising out of:

- 1) the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by loading or unloading of that vehicle by any insured; or
- 2) the existence of tools, uninstalled equipment or abandoned or unused materials.

- 15. "Professional liability"** means liability arising out of the rendering of a service relating to a profession in a manner which is reasonable and in keeping with the standards of that profession and formal accreditation or failure to render a service.

This includes, but is not necessarily limited to, professions such as:

- a. the practice of medicine, i.e., physician, surgeon, osteopath, chiropractor, anesthesiologists, dentist, psychiatrist, psychologist, nurse, paramedic, EMT, pharmacist, etc.;
- b. the practice of law;
- c. the practice of accounting;
- d. insurance sales or consulting;

- e. real estate sales or management;
- f. architects, engineers, surveyors or draftsmen; or
- g. stockbrokers.

16. "Property damage" means:

- a. physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. loss of use of tangible property that is not physically injured. All such loss shall be deemed to occur at the time of the "occurrence" that caused it.

- 17. "Temporary worker"** means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

- 18. "Tort liability"** means a liability that would be imposed by law in the absence of any contract or agreement.

19. "Your product" means:

- a. any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - 1) you;
 - 2) others trading under your name; or
 - 3) a person or organization whose business or assets you have acquired; and
- b. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

"Your product" includes:

- a. warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- b. the providing of or failure to provide warnings or instructions.

"Your product" does not include vending machines or other property rented to or located for use of others but not sold.

20. "Your work" means:

- a. work or operations performed by you or on your behalf; and
- b. materials, parts or equipment furnished in connection with such work or operations.

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"Your work" includes:

- a. warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- b. the providing of or failure to provide warnings or instruction.

CONDITIONS**Applicable to Coverage A and Coverage B**

The following Conditions are applicable to both Coverage A and Coverage B.

1. Appeals

At our option we can initiate or participate in an appeal of a judgment against any "insured" if the judgment is for more than the amount of the Retained Limit Aggregate stated in Item 5 of the Declarations or the Limits of Insurance of "underlying insurance". If we initiate or participate in an appeal, we will pay our costs of the appeal. These payments will be in addition to the Limits of Insurance of this policy.

2. Audit of Books and Records

We may audit the "insured's" books and records at any time during the term of this insurance or within three years after expiration or termination.

3. Bankruptcy or Insolvency

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of our obligations under this policy.

4. Cancellation

- a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - 1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - 2) 30 days before the effective date of cancellation if we cancel for any other reason.

- c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
- f. If notice is mailed, proof of mailing will be sufficient proof of notice.
- 5. Changes Notice to any agent or knowledge possessed by any agent or by any other person will not effect a waiver or change in any part of this policy. This policy can only be changed by a written endorsement that becomes part of this policy.
- 6. Duties in the Event of "Occurrence", Claim or "Suit"
 - a. You must see to it that we and your underlying insurers:
 - 1) are notified as soon as possible of any "occurrence" which may result in a claim if the claim may involve this policy or any "underlying insurance";
 - 2) receive notice of the claim or "suit" as soon as possible;
 - 3) are helped, at our request, to enforce any right against any person or organization which may be liable to the "insured" because of injury or damage to which this insurance applies; and
 - 4) receive the "insured's" full cooperation as stated in this policy or in any "underlying insurance".
 - b. Additionally, it is a requirement of this policy that:
 - 1) the "insured" not make any admission of liability; and
 - 2) the "insured" not, unless we agree, incur any expense or make any payment other than for first aid. Any such unauthorized expenses will be the "insured's" own cost.

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UMB 00 02 12 06**7. First Named Insured**

The person or organization first named in Item 1 of the Declarations is primarily responsible for the payment of all premiums. The first Named Insured will act on behalf of all other "insureds" for the giving and receiving of notice of cancellation and the receiving of any return premiums that become payable under this policy.

8. Inspections and Surveys

- a. We have the right but are not obligated to:
 - 1) make inspections and surveys at anytime;
 - 2) give you reports on the conditions we find; and
 - 3) recommend changes.
- b. Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - 1) are safe or healthful; or
 - 2) comply with laws, regulations, codes or standards.
- c. This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

9. Maintenance of Underlying Insurance

- a. While this policy is in effect you agree to maintain "underlying insurance" in full force. This means that:
 - 1) "underlying insurance" may not be cancelled or non-renewed by either you or the insurance company without notifying us;
 - 2) renewals or replacements of "underlying insurance" will not be more restrictive in coverage;
 - 3) terms, conditions and endorsements of "underlying insurance" will not materially change;

4) collectibility of "underlying insurance" limits as listed in the Schedule of Underlying Insurance, or replacements thereof, must be available regardless of the bankruptcy or insolvency of the underlying insurers; and

5) limits of "underlying insurance" will not change except for any reduction in the aggregate limits of insurance by payment of loss.

- b. Your failure and/or your underlying insurer's failure to comply with this condition will not invalidate this policy, but in the event of such failure we will only be liable to the same extent as if there had been compliance with this condition.

10. "Other Insurance"

If "other insurance" applies to claims covered by this policy, the insurance under this policy is excess and we will not make any payments until the "other insurance" has been exhausted by payment of claims. This insurance is not subject to the terms or conditions of any "other insurance".

11. Policy Period

- a. If the "underlying insurance" applies on a claims-made basis, this insurance will respond to injury or damage only if a claim for damages is first received and recorded, in the manner prescribed by the "underlying insurance", during the policy period of this insurance shown in the Declarations, including any Extended Reporting Period applicable to this insurance, regardless of any Extended Reporting Period applicable to "underlying insurance".
- b. If the "underlying insurance" does not apply on a claims-made basis, this insurance will respond to injury or damage that occurs or arises from an offense committed during the policy period of this insurance shown in the Declarations.

12. Premium

The premium for this policy as stated in Item 8 of the Declarations is a flat premium. It is not subject to adjustment unless an endorsement is attached to this policy.

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13. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned to the first Named Insured, this insurance applies:

- a. as if each Named Insured were the only Named Insured; and
- b. separately to each "insured" against whom claim is made or "suit" is brought.

14. Transfer of Rights and Duties

Your rights and duties under this insurance may not be transferred without our written consent. If you die, then your rights and duties will be transferred to your legal representative, but only while acting within the scope of duties as your legal representative. Until your legal representative is apportioned, anyone having temporary custody of your property will have your rights and duties, but only with respect to that property.

15. Transfer of Rights of Recovery

- a. If the "insured" has rights to recover all or part of any payment we have made under this insurance, those rights are transferred to us. The "insured" must do nothing after loss to impair them. At our request, the "insured" will bring "suit" or transfer those rights to us and help us enforce them.
- b. Any amount recovered will be apportioned in the inverse order of payment of loss to the extent of actual payment. The expenses of all such recovery proceedings will be apportioned in the ratio of respective recoveries.

16. When Loss is Payable

This policy will not apply until the "insured", or the "insured's" underlying insurer, is obligated to pay the full amount of the underlying limit or Retained Limit Aggregate. When the amount of "loss" has finally been determined, we will promptly pay on behalf of the "insured" the amount of "Loss" which falls within the terms of this policy. The first Named Insured will promptly reimburse us for any amount within the Retained Limit Aggregate paid by us.

NUCLEAR ENERGY LIABILITY EXCLUSION

This policy does not apply to:

- 1. Any injury or damage:**
 - a. with respect to which an "insured" under the policy is also an "insured" under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic, Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an "insured" under any such policy but for its termination upon exhaustion of its limits of insurance; or
 - b. resulting from the "hazardous properties" of "nuclear material" and with respect to which
 - 1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954 or any law amendatory thereof, or
 - 2) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- 2. Any injury or nuclear property damage resulting from the hazardous properties of nuclear material, if:**
 - a. the "nuclear material"
 - 1) is at any "nuclear facility" owned by or operated by or on behalf of, an "insured" or
 - 2) has been discharged or dispersed therefrom;
 - b. "nuclear material" is contained in spent fuel or "nuclear waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an "insured"; or

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- c. injury or "nuclear property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion c. applies only to "nuclear property damage" "to such "nuclear facility" and any property therein.
- 3. As used in this exclusion:
 - a. "Hazardous properties" includes radioactive, toxic or explosive properties.
 - b. "Nuclear facility" means:
 - 1) any "nuclear reactor";
 - 2) any equipment or device designed or used for:
 - a) separating the isotopes of uranium or plutonium;
 - b) processing or utilizing "spent fuel"; or
 - c) handling, processing or packaging "nuclear waste";
 - 3) any equipment or devices used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
 - 4) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of, "nuclear waste", and includes the site on which any of the foregoing is Located, all operations conducted on such site and all premises used for such operations.
 - c. "Nuclear material" means "source material", "special nuclear material" or "by-product material".
 - d. "Nuclear property damage" includes all forms of radioactive contamination of property.
 - e. "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.
 - f. "Nuclear waste" means any waste material
 - 1) containing by-product material other than the tailings of "nuclear waste" produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and
 - 2) resulting from the operation by any person or organization of any "nuclear facility" included within the definition of "nuclear facility" under paragraph 1. or 2.
 - g. "Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.
 - h. "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

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UMB 00 09 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMOBILE COVERAGE LIMITATION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

This insurance does not apply to any liability for any "auto" exposure that is not covered under Policy Number ACP BPMK 5403384960 and any subsequent renewal or replacement.

All other terms and conditions remain unchanged.

UMB 00 09 (12-98)

ACP CAF 5403384960

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UMB 00 19 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYEE BENEFITS LIABILITY EXCLUSION - COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage B Only**, the following exclusion is added:

Employee Benefits

any liability arising out of the administration of Employee Benefits programs.

All other terms and conditions remain unchanged.

UMB 00 19 (12-98)

ACP CAF 5403384960

INSURED

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UMB 00 27 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LEAD, RADON AND ELECTRO-MAGNETIC EXCLUSION - COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage B Only**, the following exclusion is added:

Lead, radon and electro-magnetic radiation

Any liability arising out of or alleged to have arisen out of any of the following:

- a. lead or any lead-related injury or damage including, but not limited to, any injury or damage arising out of or alleged to have arisen out of any act, error, omission, failure to warn or other duty involving lead or lead products, their use, exposure, existence, detection, removal, elimination or avoidance.
- b. radon or any other radioactive emissions, manmade or natural, or any related injury or damage including, but not limited to, any injury or damage arising out of or alleged to have arisen out of any act, omission, failure to warn, or other duty involving radon or any other radioactive emissions, their use, exposure, existence, detection, removal, elimination or avoidance.
- c. electro-magnetic emissions or radiation-related injury or damage including, but not limited to, any injury or damage arising out of or alleged to have arisen out of any act, error, omission, failure to warn or other duty involving any electro-magnetic emissions or radiation from use, exposure, existence, detection, removal, elimination or avoidance of electrical energy.

All other terms and conditions remain unchanged.

UMB 00 27 (12-98)

ACP CAF 5403384960

INSURED

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UMB 00 28 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION OF COVERAGE TO DESIGNATED PREMISES - COVERAGE A AND COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

It is agreed that Coverage A and Coverage B only apply to liability arising out of:

1. The operation(s) of the following designated premise(s)

**ALL LOCATIONS SPECIFICALLY INSURED ON 5403384960, 4200 ROSE HOSPITALITY LLC
AND 4200 ROOSEVELT LLC, 4/23/08 TO 4/23/09**

or

2. Any newly acquired premise(s), if reported within 30 days of ownership or control.

All other terms and conditions remain unchanged.

UMB 00 28 (12-98)

ACP CAF 5403384960

INSURED

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UMB 00 29 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIQUOR LIABILITY EXCLUSION - COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage B Only**, the following exclusion is added:

Liquor Liability

"Bodily injury" or "property damage" for which any "insured" may be held liable by reason of:

1. manufacturing, distributing, selling or serving of alcoholic beverages;
2. causing or contributing to the intoxication of any person;
3. the furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol;
4. any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages; or
5. the "insured's" liability as an owner or lessor of premises used for selling or serving alcoholic beverages.

All other terms and conditions remain unchanged.

UMB 00 29 (12-98)

ACP CAF 5403384960

INSURED

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UMB 00 31 02 05

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER UMBRELLA INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

If there is any other Umbrella and/or Excess Liability insurance under any other policy issued by us or any of our affiliate companies, that applies to a claim covered by this policy, then our limit for all such policies will not exceed the highest limit of liability under any one such policy.

All terms and conditions of this policy apply unless modified by this endorsement.

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UMB 00 35 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUNITIVE DAMAGES EXCLUSION - COVERAGE A AND COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage A and Coverage B** the following exclusion is added:

Punitive Damages

Any punitive or exemplary damages, fines or penalties

All other terms and conditions remain unchanged.

UMB 00 35 (12-98)

ACP CAF 5403384960

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UMB 00 43 (12-98)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**UNIMPAIRED AGGREGATE LIMITS
(NON-CONCURRENCY)**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

It is agreed that the underlying aggregate limits, where applicable, as shown in the Schedule of Underlying Insurance, shall be unimpaired at the effective date of this policy, and for the purpose of the insurance provided by this policy, only occurrences taking place during the term of this policy shall be considered in determining the extent of any exhaustion of the underlying aggregate limits.

All other terms and conditions remain unchanged.

UMB 00 43 (12-98)

ACP CAF 5403384960

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UMB 00 49 (05-02)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION - COVERAGE A AND COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage A and Coverage B** the following exclusion is added:

Fungi or Bacteria

Any liability which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

The following definition is added to the **Definitions applicable to coverage A and coverage B** section:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

All other terms and conditions remain unchanged.

UMB 00 49 (05-02)

ACP CAF 5403384960

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**COMMERCIAL LIABILITY UMBRELLA
UMB 00 52 02 03**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CAP ON LOSSES FROM CERTIFIED ACTS OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY COVERAGE PART

With respect to any one or more "certified acts of terrorism", we will not pay any amounts for which we are not responsible under the terms of the federal Terrorism Risk Insurance Act of 2002 (including subsequent acts of Congress pursuant to the Act) due to the application of any clause which results in a cap on our liability for payments for terrorism losses.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":

1. The act resulted in aggregate losses in excess of \$5 million; and
2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

All terms and conditions of this policy apply unless modified by this endorsement.

UMB 00 58 05 02

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

FUNGI OR BACTERIA EXCLUSION – COVERAGE B

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage B only**, the following exclusion is added:

Fungi or Bacteria

Any liability which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good product intended for consumption.

The following definition is added to the **Definitions Applicable to Coverage B** section:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungus.

All terms and conditions of this policy apply unless modified by this endorsement.

UMB 00 58 05 02

ACP CAF 5403384960

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54 0004948

UMB 00 64 01 07

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONDITIONAL EXCLUSION OF TERRORISM (RELATING TO DISPOSITION OF FEDERAL TERRORISM RISK INSURANCE ACT)

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

A. Applicability Of The Provisions Of This Endorsement

1. The provisions of this endorsement become applicable commencing on the date when any one or more of the following first occurs. But if your policy (meaning the policy period in which this endorsement applies) begins after such date, then the provisions of this endorsement become applicable on the date your policy begins.
 - a. The federal Terrorism Risk Insurance Program ("Program"), established by the Terrorism Risk Insurance Act, has terminated with respect to the type of insurance provided under this Coverage Part; or
 - b. A renewal, extension or replacement of the Program has become effective without a requirement to make terrorism coverage available to you and with revisions that:
 - (1) Increase our statutory percentage deductible under the Program for terrorism losses. (That deductible determines the amount of all certified terrorism losses we must pay in a calendar year, before the federal government shares in subsequent payment of certified terrorism losses.); or
 - (2) Decrease the federal government's statutory percentage share in potential terrorism losses above such deductible; or
 - (3) Redefine terrorism or make insurance coverage for terrorism subject to provisions or requirements that differ from those that apply to other types of events or occurrences under this policy.

2. If the provisions of this endorsement become applicable, such provisions:

- a. Supersede any terrorism endorsement already endorsed to this policy that addresses "certified acts of terrorism" and/or "other acts of terrorism", but only with respect to an incident(s) of terrorism (however defined) which results in injury or damage that occurs on or after the date when the provisions of this endorsement become applicable (for claims made policies, such an endorsement is superseded only with respect to an incident of terrorism (however defined) that results in a claim for injury or damage first being made on or after the date when the provisions of this endorsement become applicable); and
 - b. Remain applicable unless we notify you of changes in these provisions, in response to federal law.
3. If the provisions of this endorsement do NOT become applicable, any terrorism endorsement already endorsed to this policy, that addresses "certified acts of terrorism" and/or "other acts of terrorism", will continue in effect unless we notify you of changes to that endorsement in response to federal law.
- B. The following definitions are added and apply under this endorsement wherever the term terrorism, or the phrase any injury or damage, are enclosed in quotation marks:
1. "Terrorism" means activities against persons, organizations or property of any nature:

UMB 00 64 01 07

- a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.
 - 2. "Any injury or damage" means any injury or damage covered under any Coverage Part or underlying insurance to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part or underlying insurance.
 - C. The following exclusion is added:
- EXCLUSION OF TERRORISM**
- We will not pay for "any injury or damage" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**
- 1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
 - 2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or

All terms and conditions of this policy apply unless modified by this endorsement.

- 3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- 4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
- 5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
- 6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs C.5. or C.6. are exceeded.

With respect to this Exclusion, Paragraphs C.5. and C.6. describe the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Part.

In the event of any incident of "terrorism" that is not subject to this Exclusion, coverage does not apply to "any injury or damage" that is otherwise excluded under this Coverage Part.

UMB 00 65 03 05

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – VIOLATION OF STATUTES THAT GOVERN E-MAILS, FAX, PHONE CALLS OR OTHER METHODS OF SENDING MATERIAL OR INFORMATION

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

Under **EXCLUSIONS, Applicable to Coverage B** only, the following exclusion is added:

DISTRIBUTION OF MATERIAL IN VIOLATION OF STATUTES

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

All terms and conditions of this policy apply unless modified by this endorsement.

UMB 00 74 05 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**AMENDMENT OF INSURING AGREEMENT – COVERAGE B
KNOWN INJURY OR DAMAGE**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

The following is added for Coverage B – Umbrella Liability Insurance under INSURING AGREEMENTS:

- A. This insurance applies to "bodily injury" and "property damage" only if:
1. The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the coverage territory;
 2. The "bodily injury" or "property damage" occurs during the policy period; and
 3. Prior to the policy period, no "insured" and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- B. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any "insured" or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- C. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any "insured" or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:
1. Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 2. Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 3. Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

All terms and conditions of this policy apply unless modified by this endorsement.

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UMB 37 00 03 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**PENNSYLVANIA – AMENDATORY ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY POLICY

- A. The Cancellation Policy Condition is replaced by the following:

CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by writing or giving notice of cancellation.
2. **Cancellation Of Policies In Effect For Less Than 60 Days**

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least 30 days before the effective date of cancellation.

3. **Cancellation Of Policies In Effect For 60 Days Or More**

If this policy has been in effect for 60 days or more or if this policy is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- a. You have made a material misrepresentation which affects the insurability of the risk. Notice of cancellation will be mailed or delivered at least 15 days before the effective date of cancellation.
- b. You have failed to pay a premium when due, whether the premium is payable directly to us or our agents or indirectly under a premium finance plan or extension of credit. Notice of cancellation will be mailed at least 15 days before the effective date of cancellation.
- c. A condition, factor or loss experience material to insurability has changed substantially or a substantial condition, factor or loss experience material to insurability has become known during the policy period. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- d. Loss of reinsurance or a substantial decrease in reinsurance has occurred, which loss or decrease, at the time of cancella-

tion, shall be certified to the Insurance Commissioner as directly affecting in-force policies. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

- e. Material failure to comply with policy terms, conditions or contractual duties. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.
- f. Other reasons that the Insurance Commissioner may approve. Notice of cancellation will be mailed or delivered at least 60 days before the effective date of cancellation.

This policy may also be cancelled from inception upon discovery that the policy was obtained through fraudulent statements, omissions or concealment of facts material of the acceptance of the risk or to the hazard assumed by us.

4. We will mail or deliver our notice to the first Named Insured's last mailing address known to us. Notice of cancellation will state the specific reasons for cancellation.
5. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
6. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata and will be returned within 10 business days after the effective date of cancellation. If the first Named Insured cancels, the refund may be less than pro rata and will be returned within 30 days after the effective date of cancellation. The cancellation will be effective even if we have not made or offered a refund.
7. If notice is mailed, it will be by registered or first class mail. Proof of mailing will be sufficient proof of notice.

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- B. The following are added and supersede any provisions to the contrary:

1. Nonrenewal

If we decide not to renew this policy, we will mail or deliver written notice of nonrenewal, stating the specific reasons for nonrenewal, to the first Named Insured at least 60 days before the expiration date of the policy.

2. Increase Of Premium

If we increase your renewal premium, we will

mail or deliver to the first Named Insured written notice of our intent to increase the premium at least 30 days before the effective date of the premium increase.

Any notice of nonrenewal or renewal premium increase will be mailed or delivered to the first Named Insured's last known address. If notice is mailed, it will be by registered or first class mail. Proof of mailing will be sufficient proof of notice.

All terms and conditions of this policy apply unless modified by this endorsement.

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13614 (11-85)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIAL CONTINUATION PROVISION

If we offer to continue and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required continuation premium when due shall mean that you have not accepted our offer.

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